

sub 3
B3 Claim 3 (twice-amended). Apparatus in accordance with claim 1, wherein the blade is lockable in position.

sub 6
B3 Claim 6 (amended). Apparatus in accordance with claim 2, wherein the blade is lockable in position.

REMARKS

This application pertains to a novel device for emptying a hose bag.

Claims 1-6 are pending.

The abstract stands objected to because the Examiner reads it as being merely a recitation of claim 1. A new abstract has now been provided, and the objection should be withdrawn.

The disclosure also stands objected to because of the reference to claim 1 on page 2, lines 3-4. This has now been canceled, and the objection should be withdrawn.

Claims 1-6 stand rejected under 35 U.S.C. 112, second paragraph because:

1. In claim 1 the Examiner sees it as unclear whether the mating part is fixed to the hose bag or the emptying apparatus; and

2. The Examiner sees it unclear in claims 3 and 6 if the two limitations are

related and questions whether the blade is in the lockable end position when the bag is opened.

The claims have now been amended to make it clear that the mating part is fixed to the hose bag, and that the blade is lockable "in position". If the Examiner will refer to page 4, lines 20-23 (and in Figures 4 & 6), he will see that the blade has *several* material projections that serve to lock the blade. At page 2, lines 20-24, the Examiner will see that the blade can be locked in a position which opens the hose bag, to prevent an unintentional retraction of the blade. Thus, the blade can be locked in any of several positions, the position which opens the hose bag being one of them. It is accordingly most accurate to say that the blade can be locked "in position".

It should also be noted that claim 3 depends from claim 1 and claim 6 depends from claim 2. Thus, although claims 3 and 6 recite the same limitation, it is applied to a different preceding claim in each case. The alternative would have been to make claim 3 dependent from claim "1 or 2", but Applicants chose to avoid multiple-dependent claims.

It is believed that the foregoing resolves the 35 U.S.C. 112 issues, and the rejection of claims 1-6 under 35 U.S.C 112, second paragraph, should now be withdrawn.

Claims 1-6 stand rejected under 35 U.S.C. 102(b) as anticipated by King, U.S. 5,429,273.

The Examiner will note that Applicants' device has a helical cutting blade (Claim 1 Figs. 3- 6). The piercing element of the King reference, by contrast, has a sharp pointed end on a corkscrew tip to pierce the package (see element 71 in Fig. 6 and col. 5, lines 5-6).

Applicant's device, using its helical cutting blade, cuts the package material with a clean, S-formed cut. Because of this cut-form, no pieces of the packaging (i.e., foil or plastic sheet) will be found in the dispensed material. Due to the movement of the helical cutting blade, there is initially a combined cutting and piercing action. This provides a clean cut, and the bag material (i.e., foil, plastic, etc.) is not allowed to break uncontrolled. No pieces will be separated from the packaging material.

By contrast, the corkscrew device of the King reference would appear to require two actions: one to pierce and grab the foil (i.e., packaging material), and one retracting movement to draw the packaging material and use it as a sealing means.

The fact that Applicants' blade requires only one protruding action and no retracting action represents a significant advantage.

The King device is clearly different than and non-suggestive of Applicants' apparatus, and the rejection of claims 1-6 under 35 U.S.C. 102(b) as anticipated by King, U.S. 5,429,273 should be withdrawn.

In view of the present remarks it is believed that claims 1-6 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Appellants request that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account No. 14-1263.

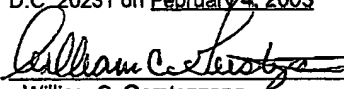
Respectfully submitted,
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I hereby certify that this correspondence is being transmitted via facsimile addressed to Hon. Assistant Commissioner For Patents, Washington, D.C. 20231 on February 4, 2003


William C. Gerstenzang

Date: February 4, 2003

**MARKED-UP COPIES OF AMENDED CLAIMS
SHOWING CHANGES RELATIVE TO PREVIOUS VERSIONS**

Claim 1 (twice-amended). Apparatus for emptying a hose bag comprising a cap-like mating part fixed on one end [thereof, which has] of said hose bag, said cap-like mating part having a pipe-shaped outlet opening (3) and a helical cutting [device] blade arranged therein for opening the hose bag.

Claim 3 (twice-amended). Apparatus in accordance with claim 1, wherein the blade is lockable in [an end] position [, wherein a hose bag is cut open].

Claim 6 (amended). Apparatus in accordance with claim 2, wherein the blade is lockable in [an end] position [, wherein a hose bag is cut open].